

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1025 - SB 1009

March 25, 2015

SUMMARY OF BILL: Sets the minimum hourly rate for attorneys appointed to criminal cases under Title 40, Chapter 14, Part 2 at \$100 per hour whether the work is in-court or out-of-court.

Requires the Supreme Court to establish per case minimum rates on compensation for appointed attorneys in other matters. Such rates shall be in proportion to the \$100 per hour minimum rate.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$44,327,600/Indigent Defense Fund

Assumptions:

- Currently, appointed counsel in all cases except capital murder cases receives \$50 per hour for in court work and \$40 per hour for out-of-court work. The Supreme Court is of the opinion that all legal work is equal, except for capital murder cases, and sets the hourly rate the same for all appointed work. This includes cases other than criminal cases—e.g., judicial hospitalization, guardian ad litem, and others.
- The bill would require the minimum rate for appointed counsel to be \$100 per hour. The Administrative Office of the Courts reports that the Supreme Court would set the rate for all appointed work, except for capital murder cases, at \$100 per hour.
- In 2014, the total in-court hours billed to the indigent defense fund for non-capital cases were 64,926.3. These are billed at \$50 per hour for a total of \$3,246,315. The total out-of-court hours billed to the indigent defense fund for non-capital cases were 682,233.2. These are billed at \$40 per hour for a total of \$27,289,328.
- In capital cases, a defendant is appointed two attorneys, a lead attorney and a co-counsel. The lead attorney is compensated \$100 per hour for in-court time and \$75 per hour for out-of-court time. A co-counsel is compensated \$80 per hour for in-court time and \$60 per hour for out-of-court time. It is assumed that both attorneys appear in court at all times, and that the average cost per hour bill is \$90 per hour. It is further assumed that a lead attorney performs most of the out-of-court work, and that the average cost per hour is \$70 per hour, which is weighted toward the lead attorney's out-of-court rate to reflect the increased work done by the lead attorney out of court.
- In 2014, the total in-court hours billed to the indigent defense fund for capital cases were 166. It is assumed that these are billed at \$90 per hour for a total of \$14,940. The total out-of-court hours billed to the indigent defense fund for capital cases were 4,855.2. It is assumed that these are billed at \$70 per hour for a total of \$339,864.

- The total amount paid in 2014 was \$30,890,447 (\$3,246,315 + \$27,289,328 + \$14,940 + \$339,864).
- It is assumed that the Supreme Court will set the hourly rate of compensation for appointed attorneys at \$100, regardless of whether the case is capital or non-capital and whether or not the work is in-court or out-of-court.
- Under the bill the total amount paid would be \$75,218,070 [(64,926.3 x \$100) + (682,233.2 x \$100) + (166 x \$100) + (4,855.2 x \$100)].
- The bill would increase expenditures from the Indigent Defense Fund by \$44,327,623 (\$75,218,070 - \$30,890,447).

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

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